

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14549 of 2016

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Deepak Kumar son of Late Ramkumar Prasad Resident of Mohalla- Nehruchak,
P.O.- Gulzarbagh, P.S.- Alamganj, Town and District- Patna.

.... Petitioner

Versus

1. The State of Bihar through Home Secretary, Govt. of Bihar.
2. Divisional Commissioner, Patna Division, Patna.
3. District Magistrate, Patna.
4. Senior Superintendent of Police, Patna.
5. Additional District Magistrate (Arms), Patna.
6. District Arms Magistrate, Patna.
7. S.H.O. Alamganj Police Station, Patna.

.... Respondents

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Appearance :

For the Petitioner : M/s Manisha Pandey,
Shweta Pandey, Advocates
For the State : Md. Nadim Seraj, G.P.5

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 19-12-2016

I have heard the parties and perused the records of this case.

This is not the first time that the petitioner has approached this Court as he had approached earlier by filing C.W.J.C. No.13391 of 2014 which was allowed vide judgment dated 01.02.2016 holding that lack of evidence regarding threat perception cannot be a ground for refusal under Section 14(1)(b)(ii) of the Arms Act, 1959. It was further held that there cannot be any presumption that a gun of permitted bore in the hand of a lawful citizen would be detrimental for



the peace or for public safety unless he is in conflict with a person or group of persons. However, again the same stereotyped view has been taken by the Licensing Authority vide order dated 11.08.2016, as contained in Annexure 8, while rejecting the application of the petitioner.

On perusal of such order, this Court had directed the District Magistrate, Patna vide order dated 28.11.2016 to explain as to why his action should not be held to be contumacious in nature because he has passed order which appears to be contrary to the decision rendered in the petitioner's case itself on the earlier occasion by which the matter was remanded back to him for taking a fresh decision.

In reply, a show cause affidavit has been filed rendering apology and a supplementary counter affidavit stating that the District Magistrate understood that the order was to be passed on its own merit and in accordance with law. In my view, such explanation is to be rejected as such order would never mean that if an issue is decided by a court of law and, thereafter, the matter has remanded back to decide on its own merit and in accordance with law, a decision contrary to what has been laid down by the Court can be taken by a statutory authority. However, in view of show cause affidavit filed by him, this Court is inclined to close that issue and his



apology is also accepted.

Since learned counsel for the State has also not been able to defend the order as to why such order contrary to the ratio decided by this Court in the earlier decision could have been passed, the same is quashed and set aside. The matter is again remitted back to the Licensing Authority to take a fresh decision in the matter of the petitioner on its own merit and in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

This writ application stands allowed.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2017
Transmission Date	NA

